

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RICHEL GAYATIN DELA CALZADA
13045 Pacific Promenade, Unit 341
Playa Vista, CA 90094

Registered Nurse License No. 671059

Respondent

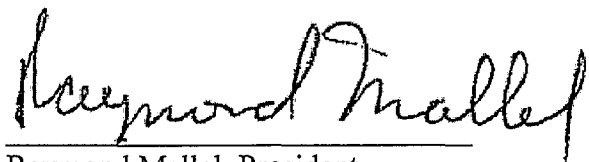
Case No. 2012-488

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **April 5, 2013.**

IT IS SO ORDERED **March 6, 2013.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 NANCY A. KAISER
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Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-488

12 **RICHIE GAYATIN DELA CALZADA**
13 **13045 Pacific Promenade, Unit 341**
Playa Vista, CA 90094
14 **Registered Nurse License No. 671059**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Rene Judkiewicz, Deputy Attorney General.

24 2. Respondent Richie Gayatin Dela Calzada (Respondent) is represented in this
25 proceeding by attorney Joel B. Hoffman, whose address is: Hoffman and Associates
26 100 Oceangate Boulevard, Suite 1200, Long Beach, CA 90802.

27 3. On or about December 22, 2005, the Board of Registered Nursing issued Registered
28 Nurse License No. 671059 to Richie Gayatin Dela Calzada (Respondent). The Registered Nurse

1 License was in full force and effect at all times relevant to the charges brought in Accusation No.
2 2012-488 and will expire on February 28, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2012-488 was filed before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on February 23,
7 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2012-488 is attached as exhibit A and incorporated herein
9 by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 2012-488. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 2012-488, with the exception of the error in the Accusation regarding Respondent's January
27 6, 2010 conviction. The Accusation erroneously alleges that Respondent was convicted on
28 January 6, 2010, of violating Vehicle Code section 23152, subdivision (a) [driving under the

1 influence of alcohol/drugs], a misdemeanor, in the criminal proceeding entitled *The People of the*
2 *State of California v. Rickie Gayatin De La Calzada* (Super. Ct. Los Angeles County, 2010, No.
3 713453). Respondent was actually charged and convicted of violating Vehicle Code section
4 23123(a) (talking on cell phone while driving), an infraction.

5 10. Respondent agrees that his Registered Nurse License is subject to discipline and he
6 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 671059 issued to Respondent Richie Gayatin Dela Calzada (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

1 Upon successful completion of probation, Respondent's license shall be fully restored.

2 3. **Report in Person.** Respondent, during the period of probation, shall appear in
3 person at interviews/meetings as directed by the Board or its designated representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
5 practice as a registered nurse outside of California shall not apply toward a reduction of this
6 probation time period. Respondent's probation is tolled, if and when he resides outside of
7 California. Respondent must provide written notice to the Board within 15 days of any change of
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where he has ever been licensed
11 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
12 information regarding the status of each license and any changes in such license status during the
13 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
14 license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
16 or cause to be submitted such written reports/declarations and verification of actions under
17 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
18 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
19 Respondent shall immediately execute all release of information forms as may be required by the
20 Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
22 state and territory in which he has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
24 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
25 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered nursing"
27 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
28 non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of his good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
6 extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
10 prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to his employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after he obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
19 regardless of cause, from any nursing, or other health care related employment with a full
20 explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
22 Respondent's level of supervision and/or collaboration before commencing or continuing any
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
27 approved.

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Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. Employment Limitations. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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1 Respondent shall work only on a regularly assigned, identified and predetermined
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
4 request documentation to determine whether there should be restrictions on the hours of work.

5 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and
6 successfully complete a course(s) relevant to the practice of registered nursing no later than six
7 months prior to the end of his probationary term.

8 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
9 Respondent shall submit to the Board the original transcripts or certificates of completion for the
10 above required course(s). The Board shall return the original documents to Respondent after
11 photocopying them for its records.

12 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
13 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
14 amount of \$1,646.50. Respondent shall be permitted to pay these costs in a payment plan
15 approved by the Board, with payments to be completed no later than three months prior to the end
16 of the probation term.

17 If Respondent has not complied with this condition during the probationary term, and
18 Respondent has presented sufficient documentation of his good faith efforts to comply with this
19 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
20 extension of Respondent's probation period up to one year without further hearing in order to
21 comply with this condition. During the one year extension, all original conditions of probation
22 will apply.

23 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the
24 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
25 and impose the stayed discipline (revocation/suspension) of Respondent's license.

26 If during the period of probation, an accusation or petition to revoke probation has been
27 filed against Respondent's license or the Attorney General's Office has been requested to prepare
28 an accusation or petition to revoke probation against Respondent's license, the probationary

1 period shall automatically be extended and shall not expire until the accusation or petition has
2 been acted upon by the Board.

3 **13. License Surrender.** During Respondent's term of probation, if he ceases practicing
4 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
5 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
6 Respondent's request and to exercise its discretion whether to grant the request, or to take any
7 other action deemed appropriate and reasonable under the circumstances, without further hearing.
8 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
9 subject to the conditions of probation.

10 Surrender of Respondent's license shall be considered a disciplinary action and shall
11 become a part of Respondent's license history with the Board. A registered nurse whose license
12 has been surrendered may petition the Board for reinstatement no sooner than the following
13 minimum periods from the effective date of the disciplinary decision:

14 (1) Two years for reinstatement of a license that was surrendered for any reason other
15 than a mental or physical illness; or

16 (2) One year for a license surrendered for a mental or physical illness.

17 **14. Physical Examination.** Within 45 days of the effective date of this Decision,
18 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
19 assistant, who is approved by the Board before the assessment is performed, submit an
20 assessment of the Respondent's physical condition and capability to perform the duties of a
21 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
22 medically determined, a recommended treatment program will be instituted and followed by the
23 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
24 to the Board on forms provided by the Board.

25 If Respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed physician, nurse practitioner, or physician assistant making this determination shall
27 immediately notify the Board and Respondent by telephone, and the Board shall request that the
28 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall

1 immediately cease practice and shall not resume practice until notified by the Board. During this
2 period of suspension, Respondent shall not engage in any practice for which a license issued by
3 the Board is required until the Board has notified Respondent that a medical determination
4 permits Respondent to resume practice. This period of suspension will not apply to the reduction
5 of this probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within the 45-day
7 requirement, Respondent shall immediately cease practice and shall not resume practice until
8 notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 **15. Participate in Treatment/Rehabilitation Program for Chemical**

14 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
15 period or shall have successfully completed prior to commencement of probation a Board-
16 approved treatment/rehabilitation program of at least six months duration. As required, reports
17 shall be submitted by the program on forms provided by the Board. If Respondent has not
18 completed a Board-approved treatment/rehabilitation program prior to commencement of
19 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
20 a program. If a program is not successfully completed within the first nine months of probation,
21 the Board shall consider Respondent in violation of probation.

22 Based on Board recommendation, each week Respondent shall be required to attend at
23 least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
24 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by
25 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent
26 shall be added. Respondent shall submit dated and signed documentation confirming such
27 attendance to the Board during the entire period of probation. Respondent shall continue with the
28 recovery plan recommended by the treatment/rehabilitation program or a licensed mental health

1 examiner and/or other ongoing recovery groups.

2 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
3 shall completely abstain from the possession, injection or consumption by any route of all
4 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
5 the same are ordered by a health care professional legally authorized to do so as part of
6 documented medical treatment. Respondent shall have sent to the Board, in writing and within
7 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
8 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
9 medication will no longer be required, and the effect on the recovery plan, if appropriate.

10 Respondent shall identify for the Board a single physician, nurse practitioner or physician
11 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
12 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
13 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
14 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
15 considered addictive have been prescribed, the report shall identify a program for the time limited
16 use of any such substances.

17 The Board may require the single coordinating physician, nurse practitioner, or physician
18 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
19 medicine.

20 **17. Submit to Tests and Samples.** Respondent, at his expense, shall
21 participate in a random, biological fluid testing or a drug screening program which the Board
22 approves. The length of time and frequency will be subject to approval by the Board.
23 Respondent is responsible for keeping the Board informed of Respondent's current telephone
24 number at all times. Respondent shall also ensure that messages may be left at the telephone
25 number when he is not available and ensure that reports are submitted directly by the testing
26 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
27 to the Board by the program and Respondent shall be considered in violation of probation.

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1 In addition, Respondent, at any time during the period of probation, shall fully cooperate
2 with the Board or any of its representatives, and shall, when requested, submit to such tests and
3 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
4 hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized and not
6 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
7 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
8 practice pending the final decision on the petition to revoke probation or the accusation. This
9 period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug screening
11 program within the specified time frame, Respondent shall immediately cease practice and shall
12 not resume practice until notified by the Board. After taking into account documented evidence
13 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
14 suspend Respondent from practice pending the final decision on the petition to revoke probation
15 or the accusation. This period of suspension will not apply to the reduction of this probationary
16 time period.

17 18. **Mental Health Examination.** Respondent shall, within 45 days of the
18 effective date of this Decision, have a mental health examination including psychological testing
19 as appropriate to determine his capability to perform the duties of a registered nurse. The
20 examination will be performed by a psychiatrist, psychologist or other licensed mental health
21 practitioner approved by the Board. The examining mental health practitioner will submit a
22 written report of that assessment and recommendations to the Board. All costs are the
23 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
24 result of the mental health examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed mental health care practitioner making this determination shall immediately notify the
27 Board and Respondent by telephone, and the Board shall request that the Attorney General's
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of
2 suspension, Respondent shall not engage in any practice for which a license issued by the Board
3 is required, until the Board has notified Respondent that a mental health determination permits
4 Respondent to resume practice. This period of suspension will not apply to the reduction of this
5 probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within the 45-day
7 requirement, Respondent shall immediately cease practice and shall not resume practice until
8 notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 19. **Therapy or Counseling Program.** Respondent, at his expense, shall participate
14 in an on-going counseling program until such time as the Board releases him from this
15 requirement and only upon the recommendation of the counselor. Written progress reports from
16 the counselor will be required at various intervals.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
19 discussed it with my attorney, Joel B. Hoffman. I understand the stipulation and the effect it will
20 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary
21 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
22 of the Board of Registered Nursing.

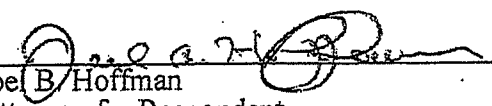
23
24 DATED: Jan. 28, 2013



25 RICHIE GAYATIN DELA CALZADA
26 Respondent
27
28

1 I have read and fully discussed with Respondent Richie Gayatin Dela Calzada the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 1/28/13


Joe B. Hoffman
Attorney for Respondent


6
7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
10 Affairs.

11 Dated: 1/29/13

Respectfully submitted,

12
13 KAMALA D. HARRIS
Attorney General of California
14 KAREN B. CHAPPELLE
Supervising Deputy Attorney General

15 
16 NANCY A. KAISER
17 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-488

1 KAMALA D. HARRIS
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2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 KAREN B. CHAPPELLE
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-488**

13 **RICHIE GAYATIN DELA CALZADA**
14 **13045 Pacific Promenade, Unit 341**
15 **Playa Vista, CA 90094**

A C C U S A T I O N

16 **Registered Nurse License No. 671059**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about December 22, 2005, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 671059 to Richie Gayatin Dela Calzada (Respondent). The
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on February 28, 2013, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board, Registrar or Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2761 provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an

1 application for a certificate or license for any of the following:

2 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

3

4 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
6 Act] or regulations adopted pursuant to it.

7

8 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
9 functions, and duties of a registered nurse, in which event the record of the conviction shall be
10 conclusive evidence thereof."

11 8. Section 2762 provides, in pertinent part:

12 "In addition to other acts constituting unprofessional conduct within the meaning of this
13 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
14 chapter to do any of the following:

15 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
16 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
17 administer to another, any controlled substance as defined in Division 10 (commencing with
18 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
19 defined in Section 4022.

20 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
21 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
22 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
23 himself or herself, any other person, or the public or to the extent that such use impairs his or her
24 ability to conduct with safety to the public the practice authorized by his or her license.

25 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
26 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
27 or the possession of, or falsification of a record pertaining to, the substances described in
28 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence

1 thereof."

2 9. Section 2764 provides, in pertinent part, that the expiration of a license shall not
3 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
4 to render a decision imposing discipline on the license."

5 10. Section 2811, subdivision (b) provides, in pertinent part, that the Board may renew an
6 expired license at any time within (8) eight years after the expiration.

7 **REGULATORY PROVISIONS**

8 11. California Code of Regulations, title 16, section 1444 provides, in pertinent part:

9 "A conviction or act shall be considered to be substantially related to the qualifications,
10 functions or duties of a registered nurse if to a substantial degree it evidences the present or
11 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
12 safety, or welfare."

13 **COST RECOVERY**

14 12. Section 125.3 provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Convictions of Substantially-Related Crimes)**

20 13. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision
21 (f), in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent
22 was convicted of crimes that are substantially related to the qualifications, functions or duties of a
23 registered nurse which to a substantial degree evidences his present or potential unfitness to
24 practice in a manner consistent with the public health, safety, or welfare, as follows:

25 a. On or about September 13, 2010, after pleading *nolo contendere*, Respondent was
26 convicted of misdemeanor count of violating Vehicle Code section 23103 [reckless driving], in
27 the criminal proceeding entitled *The People of the State of California v. Rickie Gayatin De La*
28 *Calzada* (Super. Ct. Los Angeles County, 2010, No. 0PS02928). The court placed Respondent on

1 probation for a period of 2 years, and fined him. The circumstances surrounding the conviction
2 are that on or about June 12, 2010, a Glendale Highway Patrol Officer, while on duty, during a
3 routine traffic stop, stopped Respondent for weaving from one side of a lane to another. The
4 officer approached Respondent's vehicle and noticed that Respondent had an odor of an alcoholic
5 beverage emitting from the interior of his vehicle, red and glassy eyes, and slurred speech.
6 Respondent admitted to the officer that he had, "two bottles of beer a few hours earlier in the
7 evening." Respondent agreed to a series of field sobriety test which he failed to perform
8 satisfactorily. Respondent also consented to two breath test with results of .09% BAC at 0459
9 hours and .08% BAC at 0503 hours. Respondent was subsequently convicted of violating
10 Vehicle Code section 23103, [reckless driving].

11 b. On or about January 06, 2010, after pleading *nolo contendere*, Respondent was
12 convicted of misdemeanor count of violating Vehicle Code section 23152, subdivision (a)
13 [driving under the influence of alcohol/drugs], in the criminal proceeding entitled *The People of*
14 *the State of California v. Rickie Gayatin De La Calzada* (Super. Ct. Los Angeles County, 2009,
15 No. 713453). The court placed Respondent on probation.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Alcohol Related Conviction)**

18 14. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
19 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about January 6,
20 2010, Respondent was convicted of a crime involving the consumption of alcoholic beverages.
21 Complainant refers to and by this reference incorporates the allegations set forth above in
22 paragraph 13, subparagraph (b), inclusive, as though set forth fully.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Dangerous Use of Alcoholic Beverages)**

25 15. Respondent is subject to disciplinary action under section 2761, subdivision (a), and
26 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or about June 12, 2010
27 and November 10, 2009, Respondent used alcoholic beverages to an extent or in a manner
28 dangerous or injurious to himself, or others. Complainant refers to and by this reference

incorporates the allegations set forth above in paragraph 13, subparagraphs (a) and (b), inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct / Violate Act)

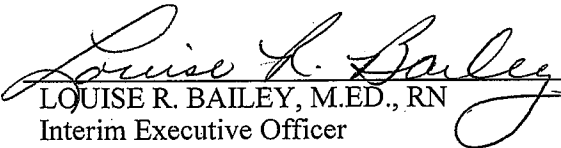
16. Respondent is subject to disciplinary action under sections 2761, subdivisions (a), and/ or (d), on the grounds of unprofessional conduct, in that Respondent committed acts of unprofessional conduct, and/ or acts violating the Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 13-16, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 671059, issued to Richie Gayatin Dela Calzada;
2. Ordering Richie Gayatin Dela Calzada to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: February 23, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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